CARRIERS—EVIDENCE—BURDEN OF SHOWING NEGLIGENCE ON SHIPPER.—An action was brought for damages due to an unreasonable delay in the delivery of a shipment of stock. The trial court proceeded upon the theory that the plaintiff had made a *prima facie* case by showing a failure on the part of the defendant to transport the cattle within a reasonable time, and that the defendant had the burden of showing that the delay was not due to negligence if he were to escape liability. *Held,* the plaintiff had the burden of proving that the delay was due to negligence. *Bland* v. *Chicago, etc., Ry. Co.* (Mo., 1921), 232 S. W. 232.

Whether the burden of proving negligence is upon the carrier or the shipper is a question upon which the courts are in conflict. The weight of authority holds that the burden is upon the shipper. *Railroad* v. *Reeves,* 10 Wall. 176; *Cochran* v. *Dinsmore,* 49 N. Y. 249; see 3 HUTCHINSON ON CARRIERS (Ed. 3), p. 1599, and cases there cited. These cases proceed upon the theory that he who bases his cause of action upon negligence must prove it. The weight of reason, however, seems to be with the minority cases which hold that the shipper by showing a failure to comply with the contract makes a *prima facie* case, and the carrier to escape liability must prove that he was not negligent. *Berry* v. *Cooper,* 28 Ga. 543; *Hinkle* v. *Railway Co.,* 126 N. C. 932; *Chicago, etc., Ry. Co.* v. *Moss,* 60 Miss. 1003. The minority cases proceed upon the theory, first, that the contract of carriage holds the carrier liable unless the damage resulted from one of the excepted causes, and was not due to negligence. Hence, a complete defense requires the carrier not only to bring himself within the exemption, but also to prove no negligence on his part. Secondly, that negligence being a matter peculiarly within the knowledge of the carrier, public policy requires that he should have the burden of showing that he was free from negligence. The court in *Chicago, etc., Ry. Co.* v. *Moss, supra,* said: "In a large majority of cases the witnesses are the employees whose negligence has caused the loss, and even if known to the shipper, it may be dangerous for him to rest his case upon their testimony, since the natural inclinations of mankind would sway them, in narrating the circumstances, to palliate their fault by stating the occurrence in the most favorable light to themselves." Though the carrier is not an insurer against delay, and the plaintiff's cause of action in the principal case is founded solely upon negligence, yet the same public policy which induces the minority cases to place the burden as to negligence on the carrier, where loss or damage is involved, also requires that the carrier have that burden when the action is founded upon delay. To do otherwise would in many cases deny the shipper all redress, yet the principal case adopts such a rule.

CARRIERS—TERMINATION OF LIABILITY AS CARRIER AFTER ACCEPTANCE BY CONSIGNEE—UNIFORM BILL OF LADING.—The plaintiff was the consignee of a carload of goods under a uniform bill of lading which provides: "Property not removed by the party entitled to receive it, within 48 hours, exclusive of legal holidays, after notice of its arrival has been duly sent or given, may be kept in car, depot, or place of delivery of the carrier subject to a reason-